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INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

10/521349

Applicant's or agent's file reference PWO041439		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US 03/22528		International filing date (day/month/year) 17.07.2003	Priority date (day/month/year) 17.07.2002
International Patent Classification (IPC) or both national classification and IPC B65D15/08, B65D51/26			
Applicant MEADWESTVACO CORPORATION et al.			

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of 8 sheets.</p>	
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>	

Date of submission of the demand 16.02.2004	Date of completion of this report 10.11.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Schelle, J Telephone No. +49 89 2399-2612 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/US 03/22528**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

3-21 as originally filed
1, 2, 2a, 2b filed with telefax on 30.09.2004

Claims, Numbers

1-19 filed with telefax on 30.09.2004

Drawings, Sheets

1/38-38/38 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-19
	No: Claims	
Inventive step (IS)	Yes: Claims	1-18
	No: Claims	19
Industrial applicability (IA)	Yes: Claims	1-19
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

D1: EP-A-1 134 164

D2: FR-A-2 644 164

2. The subject-matter of claim 1 meets all of the criteria of Article 33(1) PCT:

- 2.1 Novelty, Article 33(2) PCT:

The closest prior art is shown by the document D1, see in particular the abstracts and the figures.

The subject-matter of claim 1 differs from the known package in that "the channel is shaped such that the end cap is releasable by twisting the end cap relative to the sleeve".

- 2.2 Inventive step, Article 33(3) PCT:

None of the documents cited in the International Search Report suggests that the channel of the end cap forming part of the package known from D1 be shaped such that the cap is "releasable by twisting the end cap relative to the sleeve".

It is true that packages having an end cap which is "releasable by twisting the end cap relative to the sleeve", e.g. packages having an screw-cap, are well-known in the art.

However, in the present case the end cap co-operates with a locking tab being folded inwards into the opening of the sleeve.

As already stated above, the available prior art lacks any suggestion whatsoever to render such a cap "releasable by twisting the end cap relative to the sleeve".

Document D2 was cited in the International Search Report as "X" with regard to

original claim 7, from which the feature that the end cap is "releasable by twisting the end cap relative to the sleeve" has been taken, merely shows an end cap which can be removed by **tilting** it relative to the sleeve.

2.3 The subject-matter of claim 1 is undoubtedly industrially applicable (Article 33(4) PCT.

3. The subject-matter of claim 11 meets all of the criteria of Article 33(1) PCT:

3.1 Novelty, Article 33(2) PCT:

The closest prior art is shown by the document D1, see in particular the abstract and the figures.

The subject-matter of claim 11 differs from the known end cap in that "the channel is shaped in such a way that the end cap is releasable by twisting the end cap relative to the sleeve".

3.2 Inventive step, Article 33(3) PCT:

None of the documents cited in the International Search Report suggests that the channel of the end cap known from D1 be modified in such a way that it is "releasable by twisting the end cap relative to the sleeve".

It is true that end caps which are "releasable by twisting the end cap relative to the sleeve", e.g. screw-caps, are well-known in the art.

However, in the present case the end cap has a channel co-operating destined to co-operate with a "locking tab being folded inwards into the opening" of a sleeve.

As already stated above, the available prior art lacks any suggestion whatsoever to render such a cap "releasable by twisting the end cap relative to the sleeve".

Document D2 was cited in the International Search Report as "X" with regard to original claim 17, from which the feature that "channel is shaped such that the end cap is releasable by twisting the end cap relative to the sleeve" has been taken, merely shows an end cap which can be removed by **tilting** it relative to the sleeve.

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- 3.3 The subject-matter of claim 11 is undoubtedly industrially applicable (Article 33(4) PCT.
4. The dependent claims 2 to 10 and 12 to 18 relate to advantageous embodiments of the subject-matter of claim 1 and claim 11, respectively.

Consequently, said claims also meet the criteria of Article 33(1) PCT.

5. The subject-matter of claim 19 does not meet the criteria of Article 33(1) PCT, because it does not involve an inventive step in the sense of Article 33(3) PCT:

The rigid end caps used in the method according to claim 19 do not include the feature that "the channel is shaped such that the end cap is releasable by twisting the end cap relative to the sleeve" (see claims 1 and 11).

Consequently, the caps used in the method according to claim 19 has no differentiating feature over the cap known from document D1.

Moreover, the package fabricated by the method according to claim 19 has no differentiating feature over the package known from document D1.

It would appear that the skilled person, if told to conceive a method of making the package show by D1, would inevitably arrive at the claimed method without performing an inventive step.

Re Item VI

Certain documents cited

Certain published documents

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International application No. PCT/US 03/22528

Application No Patent No	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid claim) (day/month/year)
PCT/US03/17951	18.12.2003	05.06.2003	06.06.2002

Re Item VII

Certain defects in the international application

1. The features of the of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
2. The description is not in conformity with the claims as required by Rule 5.1(a)(iii) PCT.
3. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.